



# San Diego City Attorney **MICHAEL J. AGUIRRE**

## **NEWS RELEASE**

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### **CITY TURNS TO APPELLATE COURTS, DECISIONS FAVORABLE TO CITY COULD SAVE TAXPAYERS MORE THAN \$600 MILLION**

**San Diego, CA:** Two major legal cases before California's Fourth District Court of Appeal could save taxpayers more than \$600 million if the court rules in favor of the City. Tomorrow oral arguments will be heard regarding a tentative ruling that throws out a majority of the \$94.5 million verdict against the City in a lawsuit filed by Roque de la Fuente, *Border Business Park vs. City of San Diego*. If the tentative ruling stands, taxpayers could save over \$150 million. In another matter, the City filed a Peremptory Writ of Mandate today, asking the appellate court for an expedited appeal in the pension case. The City is requesting that the court void illegal pension benefits granted in 1996 and 2002 based on violations of California Government Code Section 1090 (conflict of interest law). If the illegal pension benefits are rescinded, it could save taxpayers about \$500 million.

"In both of these cases, I have been relentless in representing the City of San Diego and the taxpayers to undo the wrong that has been committed against the City," said City Attorney Michael Aguirre.

#### **De La Fuente Case:**

The tentative ruling was issued July 10, 2006 and eliminates the majority of the multi-million dollar jury verdict of 2001 against the City for allegedly breaching development agreements with Border Business Park and for taking property without compensation:

Airport Planning Claim -\$25.5 million  
Truck Traffic Claim - \$39.8 million  
Developer Agreement Claim – \$29.2 million

If the tentative ruling stands, a new trial will be held on the alleged breach of developer agreement claim (\$29.2 million) against the City. The matter is being heard in Riverside County and a final decision is expected by October. Appearing before the court will be City Attorney Michael Aguirre with outside counsel Horvitz & Levy and appellate specialist Paul Urlich.

(MORE)

**Pension Case:**

On July 10, 2006, Superior Court Judge Jeffrey B. Barton denied the City's Summary Judgment Motion, ruling there are disputed facts regarding the allegations that the City's massive pension debt was unlawfully contracted by City Officials. The Judge ordered the case to go to a jury trial.

The Writ of Mandate filed today in the Fourth District Court of Appeal asks the higher court to reverse Superior Court Judge Barton's ruling based on the Superior Court's "mistaken view of Government Code Section 1090 that is supportable as a matter of law."

According to the City Attorney, the Writ is another opportunity to put an end to the disputes about the illegal pension benefits that were approved by the City Council in 1996 and 2002 in exchange for underfunding the employee pension system. That action has contributed to a \$1.4 billion deficit in the City employees' pension fund.

Points included in the Writ are:

- SDCERS Board members were voting on pension increases that they, themselves, were to receive as members of the pension system;
- Some members, union presidents, were also recipients of pension benefits known as the "Presidential Benefit," which enhanced their personal benefits above those of the general employees.
- Case law supporting Section 1090 admonishes the courts to "look behind the veil which enshrouds the activities of the parties...however devious and winding the trial may be."
- Denial of this Writ will cause continued erosion to the financial stability of the City of San Diego.

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